

HAMILTON COUNTY BOARD OF COMMISSIONERS
JUNE 10, 2002

The Hamilton County Board of Commissioners met on Monday, June 10, 2002 in the Hamilton County Commissioners Courtroom, One Hamilton County Square, Noblesville, Indiana. Vice President Holt called the public meeting to order. A quorum was declared present of Commissioner Steven A. Holt and Commissioner Sharon R. Clark. Commissioner Steven C. Dillinger was absent. The Pledge of Allegiance was recited. Vice President Holt conducted the meeting due to Clark's laryngitis.

Plat Approvals:

Hayden Run, Section 1:

Village of West Clay Replat Section 3001A, Block J:

Bridlebourne Replat of Lots 14 and 15:

Mr. Steve Broermann, Highway Department, requested approval of plats for Bridlebourne Replat of Lots 14 and 15, Village of West Clay Replat of Lots 4-10 and Common Area C of Lot J, and Hayden Run, Section 1. Clark motioned to approve. Holt seconded. Motion carried unanimously.

Highway Business

Road Cut Permits:

Mr. Les Locke requested approval of an Open Road Cut Permit: 1) RDCUT 2002-030 - Weihe Construction, Inc. at 1980' west of Shelbourne Road on 131st Street for installation of sanitary, storm & water main. Clark motioned to approve. Holt seconded. Motion carried unanimously.

Acceptance of Bonds/Letters of Credit - Highway Department:

Mr. Locke requested acceptance of Bonds and Letters of Credit for the Highway Department. 1) HCHD #B-02-0048 - The Cincinnati Insurance Company Performance Bond No. B80446330 issued on behalf of EDSAM Construction, Inc. in the sum of \$190,863 for Project No. PB-00-0005, Bridge No. 156, 110th Street over Carmel Creek to expire May 29, 2004. 2) HCHD #B-02-0049 - The Cincinnati Insurance Company Payment Bond issued on behalf of EDSAM Construction, Inc. in the sum of \$190,863.75 for Bridge No. 156 to expire 5/29/04. 3) HCHD #B-02-0050 - St. Paul Fire and Marine Insurance Company Performance Bond issued on behalf of Schutt-Lookabill, Inc. for Bridge #80 to expire 6/5/04. 4) HCHD #B-02-0051 - St. Paul Fire and Marine Insurance Company Payment Bond issued on behalf of Schutt-Lookabill, Inc. for Bridge #80 to expire 6/5/04. 5) HCHD #B-02-0052 - Developers Surety and Indemnity Company Subdivision Improvements Performance Bond No. 887360S issued on behalf of Estridge Development Company, Inc. in the sum of \$13,500 for curbs in Centennial, Section 7 to expire 6/5/04. 6) HCHD #B-02-0053 - Developers Surety and Indemnity Company Subdivision Improvements Performance Bond No. 887361S issued on behalf of Estridge Development Company, Inc. in the sum of \$40,235 for streets in Centennial, Section 7 to expire 6/5/04. Clark motioned to approve. Holt seconded. Motion carried unanimously.

Agreements

Bridge No. 135 and No. 237 Supplemental Agreement No. 1:

Mr. Locke requested approval of Supplemental Agreement No. 1, HCHD #E-01-0017, for Bridge No. 135 (River Avenue over Cicero Creek) and Bridge No. 237 (Deer Ridge Drive over Mitchner Ditch) with Beam, Longest and Neff. Clark motioned to approve. Holt seconded. Motion carried unanimously.

Subdivision Inspection Agreements

Lakes at Hayden Run, Section 1:

Mr. Locke requested approval of Subdivision Inspection Agreements, HCHD #A-02-0007, for Lakes at Hayden Run, Section 1 with Crossmann Communities Partnership and USI Consultants, Inc. in the amount of \$12,000. Clark motioned to approve. Holt seconded. Motion carried unanimously.

Saddle Creek Subdivision, Sections 10 and 11:

Mr. Locke requested approval of Subdivision Inspection Agreement, HCHD #A-02-0008, for Saddle Creek Subdivision, Sections 10 and 11 with Ditch Road Properties, LLC and Farrar Garvey in the amount of \$12,000. Clark motioned to approve. Holt seconded. Motion carried unanimously.

The Woods at Williams Creek:

Mr. Locke requested approval of Subdivision Inspection Agreement, HCHD #A-01-014, for The Woods at Williams Creek with J. Huston and EDIS, Inc. in the amount of \$2,900. Clark motioned to approve. Holt seconded. Motion carried unanimously.

Gray Road Agreement to Improve Roadway:

Mr. Locke requested approval of the Agreement to Improve Roadway, HCHD #M-02-0023, between Hamilton County Board of Commissioners and Hamilton County Catholic High School Corporation on Gray Road from 151st Street to 156th Street in Noblesville Township. Clark motioned to approve. Holt seconded. Motion carried unanimously.

Official Actions

No Passing Zones:

Mr. Locke requested approval of an official action for No Passing Zones in various locations in Hamilton County. Clark motioned to approve. Holt seconded. Motion carried unanimously.

Correspondence

Tractor/Mower:

Mr. Tom Stevens stated the Hamilton County Surveyor has requested the Tractor/Mower 225 listed as surplus be transferred to the Hamilton County Surveyor's Office. Holt asked if this is the tractor to mow the drains? Mr. Kent Ward stated yes, it is the tractor that we have been using on the drains. We would like to get in earlier and knock the weeds down before they go to seed. Holt stated we went through how many hours the tractor was used per year and his concern is that if the Highway Department is declaring it surplus it is probably spent. Mr. Ward stated it is a pretty good tractor for our use. Holt asked where will you keep it? Mr. Ward stated probably the old salt barn. Holt asked Mr. Stevens if there would be room for the Surveyor's tractor in the proposed new building? Mr. Stevens stated yes, right now he can not accommodate the tractor.

Holt and Clark approved unanimously.

Lowery Cemetery:

Mr. Stevens stated he received a letter from Marion Hensley, Fall Creek Township Trustee stated that a large truck cut the corner on East 136th Street and Promise Road and destroyed a fence and head stone at the Lowery Cemetery. Mr. Hensley has asked if there is any protection against this happening again. Mr. Stevens stated he does not know what the Highway Department can do to help the situation short of relocating 136th Street to the north away from the cemetery, which would be costly. Mr. Howard stated we do not have any affirmative duty to protect it, on the other hand we have no right to move the cemetery. Holt asked Mr. Stevens to develop an estimate of moving the road and ask Marion Hensley about participation in the project.

Acceptance of Right-of-Way: (Tape 1, #479)

Mr. Locke requested approval of Acceptance of Right-of-Way from the Roman Catholic Diocese of Lafayette-in-Indiana on Gray Road from 151st Street to 156th Street. Clark motioned to approve. Holt seconded. Motion carried unanimously.

Mr. Locke requested approval of Dedication of Right-of-Way from Vermeer of Indiana along Olio Road near I-69 on a frontage road. Clark motioned to approve. Holt seconded. Motion carried unanimously.

Resolution 6-10-02-1, Re-employment of Employee:

Mr. Locke requested approval of Resolution 6-10-02-1, regarding re-employment of an employee for the Hamilton County Highway Department. Clark motioned to approve. Holt seconded. Motion carried unanimously.

Request to Advertise

Bridge No. 45, Six Points Road over Henley Creek:

Mr. Locke requested permission to advertise and sign the title sheet for Bridge #45 replacement, Six Points Road over Henley Creek. Clark motioned to approve. Holt seconded. Motion carried unanimously.

Update from County Attorney on Status of Highway Projects:

Mr. Locke asked Mr. Howard for an update on the status of Highway Projects: 1) Our Lady of Mount Carmel Catholic Church sign encroachment and right-of-way dedication - Mr. Howard stated he has reviewed the documents with Dave Lucas and we are ready to send the right-of-way dedication and encroachment agreement to the church. Dave Lucas and Tim Knapp will send those documents. Mr. Howard stated he has told Paul Reis that as soon as they are signed and returned to the Highway Department we would consider the vacation ordinance. We have held the public hearing, all we need to do is sign the ordinance. 2) Revision of Interlocal Agreement with Noblesville for Field Drive - Mr. Howard stated he will be taking that to the Noblesville Board of Works tomorrow. 3) Thompson Contracting LLC code violation - Mr. Howard stated he has been contacted by an attorney for Thompson Contracting and they have been trading phone calls on that issue. 4) Interlocal Agreement with McCordsville on the Fall Creek Road and 96th Street Intersection Project - Mr. Howard stated he did not know we had an agreement. Mr. Locke will meet with Mr. Howard on this issue. 5) Holt asked Mr. Howard where we are at on the 256th Street encroachment in right-of-way? Mr. Howard stated we have

nothing from the Prosecutor. Mr. Howard stated the Health Department is also having problems with processing ordinance violations. Mr. Howard suggested filing ordinance violations with the Noblesville City Courts and allowing that court to keep the deferral fees. This would enable things to be done quicker. Holt asked where does this leave Mr. Kiphart with his situations? Mr. Howard stated the unsafe building items would still have to come before the Board of Commissioners, it is a separate procedure. Mr. Kiphart stated he is also filing ordinance violations on general nuisance violations. Mr. Howard asked if they are prosecuted by him? Mr. Kiphart stated no, they would come through the Board of Commissioners. Holt asked Mr. Kiphart to meet with Mr. Howard to see if he would support this resolution. Mr. Howard stated he will prepare a resolution for the next meeting.

2003 Highway Department Budget Request:

Mr. Stevens requested approval of the 2003 Highway Department Budget Request. Clark motioned to approve. Holt seconded. Motion carried unanimously.

Tom Stevens Retirement Announcement:

Mr. Stevens announced he would be retiring December 6, 2002.

Highway Trailer:

Clark stated she followed up on moving the highway trailer to the Humane Society property. The Noblesville Plan Department gives temporary permits for 12-18 months for use of a trailer for animal control situation. Clark stated she spoke with Andy Wert and he stated the conditions are 100' back from centerline of Cumberland Road, 10' back from the side setback and the building is approximately 240' from centerline so there would be room to set the trailer. Clark asked if we could have an opportunity to wait for Steve Huntley to return next week. It would have to go through BZA, which normally accepts staff recommendations. Andy stated as far as he was concerned the staff would have no problem utilizing a temporary permit. Clark asked if we could reconsider the position of selling the trailer in the auction. Mr. Howard stated it would be granted as a variance, as a permitted use it is not permitted. Mobile Homes are permitted in subdivisions while they are being built. Mr. Huntley thought there was a significance difference between a subdivision and being on Cumberland Road. Clark stated they do this for churches and subdivisions. Clark asked if we could consider it? Holt so moved. Clark seconded. Motion carried unanimously.

96th Street and Shelbourne:

Clark asked Mr. Howard if he has had an opportunity to pursue the 96th Street and Shelbourne Road issue? Mr. Howard stated he is waiting on originals.

Clay Township Intersections:

Clark stated some of the right-of-way has become expensive on the intersections in Clay Township, Mr. Locke has requested has requested more money. We are still short for 106th Street and Springmill. Clark stated she has contacted Mayor Brainard. We need approximately \$400,000. We are holding \$300,000 on 116th Street and Guilford for construction. Clark stated they are not going to construction next year on 116th Street and Guilford. Mr. Locke stated if we don't do that the money will not be available next year, it is not in next year's budget and there is no room in next year's budget to put it back in. We can encumber it and hold it for next year. Mr. Locke stated if it goes away it probably goes away forever. Clark asked if we are still going to Council for \$3 million for intersections? Mr. Locke stated we have 106th Street and Springmill

back in the 2003 budget. We have \$467,000 in next year's budget depending on what level they fund us. Holt motioned in the event that we can get the project completed with the use of the \$300,000 in 2002 construction that it be utilized for 106th Street and Springmill to be replaced by the 2003 requested appropriation before the Council. Clark seconded. Motion carried unanimously.

Commissioner Committee Reports (Tape 1, #1171)

Emergency Management Time Clock Procedure:

Clark stated she has spoken with the Payroll Department and it is no inconvenience for the Payroll Department to have the employees use the TK Talk process, which enables the employees to call in when clocking in and out. Clark motioned to allow the Emergency Management Department to use the TK Talk process. Holt seconded. Motion carried unanimously.

Administrative Assistant

Riverwalk Committee:

Mr. Fred Swift stated Commissioner Dillinger has requested the Commissioners sign a letter requesting White River Rescue 2000 to consider using some of their funds for removal of the interurban piers. Clark stated we have asked Steve Schwartz to talk to the Historical Society to get their input. Clark requested this issue be tabled to the next meeting. Holt seconded. Motion carried unanimously.

Noblesville Street Dance:

Mr. Swift stated the Noblesville Street Dance will be held July 27, 2002. Mr. Swift stated in the past the Commissioners have given approval for them to use part of the courthouse lawn. Holt motioned to approve. Clark seconded. Motion carried unanimously.

2003 Commissioner Budget:

Mr. Swift stated he is still waiting for insurance figures for the 2003 Commissioner's Budget and vehicle requests. He has also requested the departments that their budgets fall under the Commissioners to submit a copy to him for the Commissioner's review.

Auditor (Tape 1, #1365)

Liability Trust Claims:

Ms. Robin Mills requested approval of one Liability Trust Claim: 1) Miller Auto Body - \$924.00. Clark motioned to approve. Holt seconded. Motion carried unanimously.

Clerk of the Circuit Court Monthly Report:

Ms. Mills requested acceptance of the April 2002 Monthly Report from the Clerk of the Circuit Court. Clark motioned to approve. Holt seconded. Motion carried unanimously.

Release of Bonds/Letters of Credit - Drainage Board:

Ms. Mills requested release of Bonds and Letters of Credit for the Drainage Board. 1) HCDB-B01-008 - Gulf Insurance Company Subdivision Bond No. BE0949568 for Woodberry, Section 6 storm sewers and erosion control in the amount of \$75,551.00. 2) HCDB-B01-017 - Gulf

Insurance Company Subdivision Bond No. BE1835168 for Woodberry, Section 7 storm sewers and erosion control in the amount of \$2,056.30. Clark motioned to approve. Holt seconded. Motion carried unanimously.

Payroll Claims:

Ms. Mills requested approval of the Payroll Claims for the period of May 11, 2002 thru May 25, 2002 paid June 7, 2002. Clark motioned to approve. Holt seconded. Motion carried unanimously.

Vendor Claims:

Ms. Mills requested approval of Vendor Claims to be paid June 11, 2002. Clark motioned to approve. Holt seconded. Motion carried unanimously.

Holt called a recess at 1:15pm. Holt called the meeting back to order at 1:30 pm.

Manatron Change Order: (Tape 1, #1443)

Ms. B.J. Casali requested approval of a Change Order to the Manatron Contract for the reassessment software. This is a decrease in the contract for \$6,000.00 because the ISS Department did most of the work. Clark motioned to approve. Holt seconded. Motion carried unanimously.

Unsafe Homes: (Tape 1, #1466)

Mr. Chuck Kiphart stated his discussion is on the unsafe homes on Burnham Walk in Laurel Lakes Subdivision and the Smith home on Lantern Road. Mr. Kiphart stated he has met with Mr. Howard. Mr. Howard stated on the Smith home we are waiting for a hearing date. On the Laurel Lakes home, Mr. Howard stated there has been a foreclosure action initiated by the construction and mortgage company. Nothing has happened in two years which is indicative that there is a bankruptcy proceeding. He thinks a bankruptcy has been filed, but there is not an active bankruptcy at this time. Mr. Howard has spoken with the attorney for the mortgage holder. There are numerous mechanics lien holders. A discussion of a potential purchase of the property is ongoing. Mr. Howard suggested that Mr. Kiphart amend his order to put in more detailed language of the statute and to add a provision that in the event that those repairs are not made by the time set in the complaint or within 30 days after that time that you would order that the building be demolished, returned to grade and a lien attached. Mr. Howard is also suggesting that under statute it requires only notice be sent to the owner, the owner lives in Florida, therefore he suggests sending First Class mail notice to all the parties listed in the litigation and they appear at the next meeting for a hearing. Clark motioned to approve. Holt seconded. Holt asked Mr. Howard to explain the process. Mr. Howard stated in the process Mr. Kiphart sent notice and a hearing was held by the Board of Commissioners on April 22, 2002. At that hearing it became apparent that we are dealing with a bankruptcy situation. Your request at that time was that we moved to continue it to see if the normal civil remedies would proceed. Mr. Howard stated he feels that we need to be very careful moving forward. If we are not sure we follow all the detailed steps and the rule for demolishing the house would be superior to all of the other parties we would have no leverage in encouraging those parties to move forward. Looking at State litigation there has been nothing filed since December 2000 the private remedies are not moving forward in this case. Mr. Howard is presuming that even if the property is sold at Tax Sale, the mortgage holder could redeem and that could be as long as 15 months from now. The threat of demolition and the cost of demolition being reimbursed to our unsafe building fund may be very well sufficient to get the parties moving or level the building and allow it to be sold. Holt asked

if we have not noticed all the parties at this point in time? Mr. Howard stated no, the reason we have noticed the owner. One section of statute says you notify the owner and there is another section that states anyone who has a substantial interest of record may speak. Holt stated in terms of the notice process we would be starting over. Assuming we did that what is our time line? Mr. Howard stated 10 days, it can be set for our next meeting. Holt asked if Mr. Howard will handle this or would Mr. Kiphart? Mr. Howard stated he will. Notice will go out tomorrow morning. Mr. Bob Rush, 2413 Laurel Lakes Boulevard, stated he is the President of the Laurel Lakes Neighborhood Association. This home is an eyesore and does present a hazard. There is water in the basement. The home is a haven for animals. This home has the potential for a child to get in to and if someone falls and hurts themselves we will have a severe problem waiting to happen. That is the real concern of the neighbors. We have been dealing with this for two years and there has been no movement on the part of any of the private owners. Anything that the Commissioners can do to apply some additional pressure would be greatly appreciated. Keith Conaway, a resident of Laurel Lakes Subdivision, stated he has had an incredible amount of assistance and cooperation from Mr. Kiphart in trying to understand what the problem is. It is time for some action, the house was vacated in bankruptcy in 1999 and nothing has happened since then. We are desperately looking for some resolution with this. Anything you can do to strengthen the order to cause some definitive action in an orderly fashion would be greatly appreciated. We do appreciate the Commissioners support. Motion carried unanimously.

Plan Commission Vehicle:

Mr. Kiphart stated there was some inconsistencies in the vehicle bids presented at the last meeting. The reason was that the dealers were trying to meet our request with vehicles that they had on the lot. Mr. Kiphart has requested quotes again and received two quotes: 1) Penske Chevrolet - \$17,660.69. 2) Hare Chevrolet - \$17,328.90. Mr. Kiphart recommends accepting the quote from Penske Chevrolet. Clark motioned to approve. Holt seconded. Motion carried unanimously.

Senior Services 2003 Budget Request:

Ms. Sandy Stewart, Executive Director Hamilton County Senior Services, thanked the Commissioners for their previous support and requested support in 2003 of \$125,000 which is the same amount requested in 2002. In 2001 they served 2,010 clients, a 25% increase over previous years. Ms. Stewart thanked the Commissioners for their support in their building project. Hamilton County's support has been a tremendous factor in approaching foundations and individuals for funds. In January our building suffered a fire. Services to clients were not interrupted. Clark motioned to approve the funding request for \$125,000 for fiscal year 2003. Holt seconded. Motion carried unanimously.

Holt called a recess at 1:50 pm. Holt called the meeting back to order at 2:00 pm.

Hamilton County Alliance 2003 Budget Request:

Mr. Jeff Burt, Hamilton County Alliance, reviewed the 2001 Hamilton County Alliance projects. Clark motioned to approve the 2003 budget request by the Hamilton County Alliance for \$75,115. Holt seconded. Motion carried unanimously.

Bid Openings

Bridge #135 and Bridge #237 Rehabilitation:

Mr. Howard opened the bids for rehabilitation of Bridge #135, River Road over Cicero Creek and Bridge #237, Deer Ridge over Mitchener Ditch. Form 96, Non-Collusion Affidavit, Bid Bond and Financial Statements are included unless otherwise specified. 1) American Contracting - #135 - \$219,460.40. #237 - \$130,402.75 for a total \$349,863.15. 2) Schutt-Lookabill - #135 - \$200,133.75. #237 - \$106,445.70 for a total \$306,579.45. 3) Erber & Milligan - #135 - \$189,771.40. #237 - \$105,150.05 for a total of \$294,921.45. 4) Smock Fansler - #135 - \$201,694.99. #237 - \$102,035.38 for a total of \$303,730.37. Mr. Howard recommended the bids be forwarded to the Highway Department for review. Holt motioned to authorized the Highway Department to award the bid to Erber & Milligan subject to an irregularity in the bid. Clark seconded. Motion carried unanimously.

Bridge #99, Mill Creek Road over JH Leap Ditch:

Mr. Howard opened the bids for Bridge #99, Mill Creek Road over JH Leap Ditch. Form 96, Non-Collusion Affidavit, Bid Bond, Financial Statement, Acknowledgment of two Addendums are included unless otherwise specified. 1) Beaty Construction - \$398,857.70. 2) EDSAM Construction, Inc. - \$314,092.87. 3) Erber & Milligan - \$416,249.80. 4) Schutt-Lookabill - \$315,174.38. 5) Smock Fansler - \$57,649.70. The Acknowledgment of Addendums was faxed to the project engineer. Mr. Howard recommend the bids be forwarded to the Highway Department for review and recommendation at the next meeting. Clark motioned to approve. Holt seconded. Motion carried unanimously.

Joint Meeting:

Clark stated the Hamilton County Council and Hamilton County Board of Commissioners will meet in joint session on July 19, 2002 from 8:00 am to 12:00 noon. The location to be determined.

Holt adjourned the meeting.

Commissioners Correspondence:

Senator Lugar Letter Supporting Disaster Request

Notice of Public Hearing:

557 Westfield Road - City of Noblesville

Beam, Longest & Neff Notice of Transmittal:

Culvert Plans Project No. HCHD #PB-99-0015

Bridge No. 135 and Bridge No. 237

IDEM Notice of Construction Permit:

Carmel Water Department - Carmel

IDEM Notice of Sewer Permit Applications:

Rolling Knoll, Section Three - Fishers

Spyglass Hill - Fishers

Ridgefield, Section 2 - Fishers

Royalwood South, Section 2 - Fishers

IDEM Notice of Appeal Rights:

Hazel Dell Woods, Section 2 - Noblesville

Arbor Grove, Section 4 - Noblesville

Whispering Woods, Phase One - Fishers

238 LLC Commercial Park - Noblesville

Ashfield, Section 1 - Westfield

Florida Road Property - Noblesville

The Bristols, Section 2B - Fishers

COUNTY BOARD OF COMMISSIONERS

Horizon, Section Three - Fishers

APPROVED

HAMILTON

Attest:

Robin M. Mills,

Auditor